

REMARKS/ARGUMENTS

The Examiner's Action of July 23, 2004, has been received and reviewed by counsel for Assignee. In that Action claims 1-3 were rejected under 35 U.S.C. 102 as anticipated by *Winger*, U.S. Patent 6,560,617.

By this response, counsel has canceled claims 1-3 and submits herewith new claims 4-10 which are believed to patentability distinguish the *Winger* reference.

The *Winger* reference discloses a system in which when detecting an error in a server computer system 110, a computer system 120 connects to network 101 through a network interface. After that, the file server operation system would be loaded to computer 122, making the server computer system 120 function as a file server. The file server computer system now can access mass storage device 124 in response to requests through the network. (Column 7: lines 15-29.)

This means that the system does not mount the cluster software that executes the failover of the host computer at the point of failure. In addition, the emulator of the mass storage in the host computer is the entity which executes the data mirroring for the mass storage of the remote site. This means an operator must be working to decide which system acts as a file server, and the mass storage device under that file server is the target storage device.

In contrast, Applicants' claimed invention discloses a method to decide which of two server computer systems is to take advantage by the following steps. First, the cluster software in the server issues the exclusive use volume command and the command first received by the pair volume control software. Then, the pair volume control software issues a command to control the pair volume, while informing the cluster software via command to indicate the normal termination. The cluster software receives this command through the pair volume control software. On this basis the server to take control is determined.

New claim 4 specifies this process in more detail than previous claim 1. In particular, a determining volume is provided in each of the first and second storage devices associated with the hosts. Upon failure of one of the hosts based on the heartbeat signal, the determining volume is selected, ultimately starting a failover process.

In view of the foregoing, counsel for Assignee believes all claims now pending in this application are in condition for allowance. The issuance of a Notice of Allowance is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, he is invited to telephone the undersigned at 650-326-2400.

Respectfully submitted,



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